

June 9, 2005

DAVID KAPLAN
2614 SOUTH 226TH B303
DES MOINES WA 98198

Subject: Complaint filed against Richard Benjamin and Gary Petersen – PDC Case No. 02-296

Dear Mr. Kaplan:

The Public Disclosure Commission (PDC) staff has completed its investigation of your complaint received April 15, 2002. As you know, a portion of your complaint was resolved through enforcement and dismissal actions taken at a Commission meeting on March 25, 2003. The Commission recommended that staff continue to look into the possibility that Mr. Benjamin and Mr. Petersen may have failed to sufficiently report the receipt of in-kind contributions to their respective campaigns from Don Wasson's unregistered political committee.

In addition, the Commission reported apparent violations by Hank Hopkins and Environmental Materials Transport, LLC to the Attorney General's Office for appropriate action. The apparent violations were for concealing \$21,000 used to support candidates in the 2001 Des Moines city council elections. That portion of your complaint has not been resolved to date.

The portion of Case No. 02-296 that remains open, other than the allegations that were reported to the Attorney General's Office, includes the following allegations: 1) that Richard Benjamin and Gary Petersen failed to sufficiently report in-kind contributions to their campaigns by Don Wasson's unregistered political committee; 2) that Mr. Petersen failed to report a monetary contribution from the Des Moines Marina Tenant's Association; 3) that Mr. Petersen failed to include all reportable information on his Personal Financial Affairs Statement when he was a candidate in 2001; 4) that Mr. Petersen failed to report the names of two contributors; and 5) that Mr. Petersen failed to accurately report the date a \$5,000 contribution was received by his campaign.

The PDC staff reviewed your allegations in light of the following statutes:

RCW 42.17.080 and .090 require political committees to file timely, accurate reports of contributions and expenditures. Reports of monetary contributions must include details concerning individual contributors.

RCW 42.17.241 requires candidates, elected officials, and certain appointed officials to disclose specific personal financial information on PDC form F-1.

Allegation #1: You alleged that Richard Benjamin and Gary Petersen failed to sufficiently report in-kind contributions to their campaigns by Don Wasson's unregistered political committee.

We found:

- Don Wasson, who in 2001 was on the Des Moines City Council, worked closely with Mr. Benjamin in his campaign efforts. He told Mr. Benjamin that he had hired a consultant, Tom Hujar, to provide campaign assistance to his campaign, and instructed Mr. Benjamin to report the value of Mr. Hujar's work as a \$500 in-kind contribution. In addition, Mr. Wasson provided paper to Mr. Benjamin valued at \$250. Mr. Benjamin reported receiving a \$750 in-kind contribution from Don Wasson on October 30, 2001.
- Mr. Hujar confirmed that he assisted Mr. Benjamin's campaign by providing samples of brochures and other campaign material. In addition, Mr. Hujar hired a consultant, Mike Snyder, to help Mr. Benjamin with his campaign material. In addition, Mr. Hujar coordinated advocacy calls that benefited Mr. Benjamin. Mr. Hujar estimated the value of his services that benefited Mr. Benjamin to be \$14,800.
- Mr. Benjamin stated that he believed the \$750 Mr. Wasson told him to report as an in-kind contribution was the true value of the support he received. Neither Mr. Hujar nor Mr. Hopkins informed Mr. Benjamin of the contributions.
- No evidence was found that Mr. Benjamin was aware of the advocacy calls made on his behalf, or of the value of Mr. Hujar's efforts made on his behalf by Mr. Wasson's unregistered political committee.
- Mr. Petersen reported receiving a \$750 in-kind contribution from Mr. Wasson. Mr. Hujar stated that he provided support to Mr. Petersen's campaign estimated at \$3,500 for his services and advocacy calls. Staff did not find any evidence that Mr. Petersen was aware of the advocacy calls made on his behalf or that he was aware of the additional in-kind contributions from Mr. Wasson's unregistered political committee.

Allegation #2: You alleged that Mr. Petersen failed to report a monetary contribution from the Des Moines Marina Tenant's Association.

We found that:

- Thomas Sitterley of the Marina Tenants' Association stated that the association did not make any campaign contributions to Mr. Petersen. A review of the Marina Tenants' Association bank records showed contributions to two other candidates, but none to Mr. Petersen.

Allegation #3: You alleged that Mr. Petersen failed to include all reportable information on his Personal Financial Affairs Statement when he was a candidate in 2001.

Specifically, you alleged that Mr. Petersen failed to report the existence of oral contracts with the City of Des Moines, or to include payments that Mr. Petersen's towing business, Pete's Towing, received from oral contracts with the City of Des Moines and its Police Department valued at approximately \$252,000 per year.

We found that:

- There was no evidence of a written or oral contract between Pete's Towing and the City of Des Moines or its police department. Oral and written contracts, as such, are not reportable on the F-1 report, only payments of more than \$7,500 received from the City of Des Moines, business customers and other government agencies. Des Moines police frequently directed Pete's Towing, the only licensed towing business in Des Moines, to tow a vehicle. The vehicle owners were responsible for payment of the towing fees, not the city of Des Moines. Only payments made by vehicle owners who are business or governmental entities are reportable on Form F-1.
- Mr. Petersen's August 27, 2001 F-1 report covered the period of the previous 12 months (August 2000 through August 2001). He did not report any payments from the City of Des Moines. On April 23, 2002, Mr. Petersen submitted an F-1 report covering calendar year 2001. He reported payments totaling \$2,502 from the City of Des Moines. Linda A. Marousek, Des Moines City Attorney, provided documents showing payments by the City of Des Moines to Pete's Towing of \$1,551 between August 1, 2000 and August 1, 2001 and \$2,195 during calendar year 2001. Mr. Petersen stated that he inadvertently left the payments off of his initial F-1 as a candidate, but reported the 2001 payments on his 2002 F-1 as an elected official.

The error on Mr. Petersen's initial F-1 does not warrant formal enforcement action.

Allegation #4: You alleged that Mr. Petersen failed to report the names of two contributors on his C-3 report.

We found that:

- On December 10, 2001, Mr. Petersen filed a C-4 report showing a \$500 contribution. However, he failed to file a C-3 report disclosing that the \$500

contribution was from his business until July 1, 2002. Mr. Petersen stated that the contribution was from his own funds and that he didn't realize his treasurer had not submitted the C-3 report. Mr. Petersen did not accept any contributions from anyone other than himself during the campaign.

While the C-3 was reported late, the late filing is mitigated by the fact that he was the sole contributor to his campaign, and the amount of the contribution was reported on a C-4 report.

Allegation #5: You alleged that Mr. Petersen failed to accurately report the date a \$5,000 contribution was received that when combined with a \$2,000 contribution received October 29, 2001 would total more than \$5,000 from a single source within 21 days of the 2001 general election.

We found that:

- Beginning October 16, 2001, Mr. Petersen's campaign was prohibited from accepting contributions totaling more than \$5,000 in the aggregate from a single source. Mr. Petersen reported receiving \$5,000 from his company on October 12, 2001. You speculated that Mr. Petersen actually received the contribution within 21 days of the election, but falsely reported an earlier date to avoid the prohibition. Cathy Naverud, was interviewed under oath and stated that the campaign did not maintain a separate bank account for the campaign, and funds in the corporate account were earmarked for the campaign as needed and were available on or before the dates reported. No evidence was provided or found that the date on the C-3 report was falsified.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with respect to the allegations listed above, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against Richard Benjamin and Gary Petersen.

If you have questions, please feel free to contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll free at 1-877-601-2828.

Sincerely,

Vicki Rippie
Executive Director